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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Petition of the Connecticut Department
of Public Utility Control to Retain
Regulatory Control of the Rates of
Wholesale Cellular Service Providers
in the State of Connecticut

**COMMENTS OF
SPRINGWICH CELLULAR LIMITED PARTNERSHIP**

**SPRINGWICH CELLULAR LIMITED
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SUMMARY

Market conditions in the Connecticut commercial mobile radio services ("CMRS") market are on the forefront of the high growth, accelerating investment, and increasing competition that is occurring in CMRS markets nationwide. The cellular carriers in Connecticut compete vigorously at both the wholesale level and in the retail market -- which competition has intensified since the 1992 entry of Bell Atlantic as the non-wireline carrier throughout most of the state. Bell Atlantic brought with it the tremendous market experience gleaned from its position as the wireline carrier throughout its telephone service territories, the significant economies of scale which accrue to a carrier serving a population area of over 30 million, and an aggressive intent to expand the business base it acquired in Connecticut. Indeed, Bell Atlantic now holds 54 percent of the cellular market, exceeding the wireline carrier's market share by 8 percent. In addition to competing head-to-head, the cellular carriers today face intense competition from existing CMRS providers in Connecticut, who offer lower cost alternatives to many of the features of cellular service, and Connecticut will be one of the first states to realize new CMRS competition stemming from the changes in the Commission's rules for enhanced specialized mobile radio ("ESMR") services and the licensing of personal communications services ("PCS"). It is just this type of rapidly expanding competitive marketplace that the Congress envisioned in developing a comprehensive framework for regulating *all* CMRS services, including provisions aimed at achieving nationwide regulatory parity among *all* CMRS providers.

Today, the wholesale cellular carriers are the only segment of the Connecticut CMRS marketplace subject to state rate regulation. Neither retail (*i.e.* end user) cellular services nor

other existing forms of CMRS (such as paging services, SMR and dispatch services), are currently regulated. Moreover, new ESMR and PCS entrants who, in the immediate future, will offer services completely substitutable for cellular service, will not be subject to state rate regulation. As a result, during the pendency of this proceeding, and to the extent the Commission were to permit continued state rate regulation of the three wholesale cellular carriers for any period hereafter, the regulatory parity sought by Congress will not apply to the three Connecticut cellular licensees.

The conditions of the CMRS market in Connecticut generally, and the cellular market in particular, demonstrate that market conditions in Connecticut have and will continue to protect subscribers from unjust and unreasonable wholesale cellular rates. Clearly, the shifting market share noted above between the wholesale carriers is the product of vigorous wholesale competition and is consistent with the FCC's expectation for competition within its two-carrier market structure. Price and service competition characterize the Connecticut wholesale cellular market. Since the inception of cellular service, wholesale cellular prices in Connecticut have declined within the range of rates permitted by the carriers' tariffs without a single increase within the permissible range. In addition to price competition, the wholesale carriers have competed on service offerings. The carriers have regularly introduced new service improvements. In addition to the basic voice communication services originally offered, for example, Springwiche now offers all of its resellers the ability to offer such new services and features as voice mail, data transmission capabilities, improved privacy, automatic call delivery outside the home service area, and automatic inter-system handoff. Furthermore, even while significantly decreasing their wholesale cellular prices, the wholesale carriers have also made

substantial investments in network and facilities expansion and improvements, including an accelerated deployment of digital technology. These investments are driven by the competition between the wholesale carriers and the imminent competition from unregulated new CMRS entrants.

The benefits of wholesale competition have contributed directly to significant growth in retail cellular subscribership in Connecticut and retail competition. At the unregulated retail level, declining wholesale prices and increased wholesale service offerings have enabled resellers to offer a wide variety of service options for consumers. The diverse retail service plans -- which enable end users to lower the cost of their cellular service through include a variety of rate plans -- have enabled cellular resellers to address the changing mobile communications needs of existing and new subscribers and have contributed to the strong growth in cellular subscription in Connecticut. In fact, in the last 26 months alone, resellers using Springwiche's network have increased end user subscribership *by 100 percent*.

Furthermore, market conditions in Connecticut already are being shaped by the arrival of new CMRS competition. In Connecticut, the Congress' and the Commission's vision of intensified competition in the wireless industry will soon be realized. Connecticut is an extremely attractive market for CMRS due to its population density, geographic location between New York and Boston, and a state *per capita* income that ranks *first* in the United States. Connecticut consumers today can choose from a range of wireless services and wireless service providers in Connecticut. In addition, Connecticut has been targeted as a key market by new CMRS entrants. Nextel already has constructed tower sites in Connecticut and is expected to

begin offering service in Connecticut in early 1995. In addition, Connecticut, which is part of the New York City MTA, will be one of the most sought after markets for PCS licensees.

The early arrival of new CMRS entrants into the state demonstrates the immediate need for regulatory parity in the regulation of all CMRS in Connecticut. In the absence of forbearance from rate regulation, the wholesale cellular carriers would be the *only* CMRS providers subject to rate regulation. The Nextel ESMR service, interstate paging, SMR, and emerging PCS providers that will compete head-to-head with cellular are not, and will not be, subject to rate regulation. Accordingly, continued rate regulation of the wholesale carriers would subject the carriers to the very asymmetrical regulation which the Budget Act seeks to preclude. As the Commission recognized in its Second Report and Order, in today's converging CMRS market subjecting cellular carriers even to minimal rate regulation, such as the filing of tariffs, can impede competition.

The Connecticut Petition seeking continued ratemaking authority, and the supporting Decision attached thereto, does not contain the persuasive evidence necessary to overcome the substantial hurdle that the Commission has stated it will require for a state to retain rate regulation of a CMRS service. There are simply no special or unique circumstances existing in Connecticut which would justify continued rate regulation. Indeed, the rates of return of the cellular carriers demonstrate that the returns in Connecticut are roughly 15 percent, showing that the rate levels are reasonable by all standards and far below those reported by other states filing petitions at the Commission seeking continued rate regulation. Moreover, the rate structure of the carriers, which includes volume discounts which are applied to all similarly situated customers and other rate elements approved by the Department (such as one-minute billing

increments), are consistent with cellular and other telephone services generally and with the Commission's rules and regulations. The corporate structure of the wholesale carriers and their retail affiliates also is fully consistent with the Commission's cellular rules. Finally, the concerns raised by the Petition as to allegations of certain isolated anti-competitive acts by the carriers, which in any event do not justify continued rate regulation, were largely based upon the bare allegations of a single reseller whose motivations and credibility are subject to substantial question and which are untrue.

Absent evidence that would support the need for continued rate regulation, and given the countervailing evidence the market conditions in Connecticut have and will continue to protect consumers against unjust and unreasonable wholesale cellular rates, the FCC should not permit rate regulation of the wholesale cellular carriers in Connecticut to continue.

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**COMMENTS OF
SPRINGWICH CELLULAR LIMITED PARTNERSHIP**

Springwich Cellular Limited Partnership ("Springwich"), by its undersigned counsel and pursuant to the Federal Communications Commission's ("Commission's") Public Notice, 59 Fed. Reg. 4295 (August 18, 1994), hereby submits its comments in response to the Petition of the Connecticut Department of Public Utility and Control to Retain Regulatory Control of the Rates of the Wholesale Cellular Service Providers in the State of Connecticut ("Petition"). The Department of Public Utility Control ("Department" or "DPUC") has petitioned the Commission pursuant to Section 332(c)(3)(B) of the Communications Act, as amended by the Omnibus Budget Reconciliation Act of 1993.^{1/} The Petition seeks Commission authority to extend the Department's jurisdiction to regulate the rates of the wholesale cellular carriers, the only segment of the commercial mobile radio services ("CMRS") marketplace regulated in Connecticut.

^{1/} Pub. L. No. 103-66, Title VI, § 6002, 107 Stat. 312, 392 (1993) (the "Budget Act").

Springwich, a wholesale cellular carrier licensed by the FCC to provide cellular service in Connecticut, respectfully submits that the market conditions for cellular wholesale services in Connecticut typify the high growth, accelerated investment, and increasing competition that characterize the cellular industry throughout the United States. In addition, like other states, in Connecticut the cellular carriers face intense competition for certain of their services from the existing unregulated CMRS providers. Connecticut also will be on the forefront of new CMRS competition stemming from the Commission's liberalization of its rules for enhanced specialized mobile radio ("ESMR") services and the Commission's licensing of personal communications services ("PCS"), all of which will be exempt from rate regulation in Connecticut like the cellular resale market. As Springwich will demonstrate below, there are no special or unique circumstances existing in Connecticut which would justify continued rate regulation of only one segment of the CMRS marketplace. Accordingly, Springwich respectfully urges the Commission to deny the request for continued rate regulation.

I. INTRODUCTION AND BACKGROUND

A. The Connecticut CMRS Market

Competitive market forces in Connecticut have produced a cellular market that features ongoing network improvements, introduction of new service offerings, frequent promotional programs, and a continuing series of price reductions in the tariffed wholesale cellular rates since the inception of cellular service in 1985. The level of competition in the wholesale cellular market in Connecticut intensified in 1992 when Bell Atlantic Enterprises International, Inc. ("Bell Atlantic"), a multi-state cellular carrier serving a population area of roughly 30 million,

purchased the Band A non-wireline carrier in Connecticut.^{2/} Bell Atlantic has been a vigorous competitor in the Connecticut wholesale market and currently serves the larger share of the wholesale market^{3/} -- incontrovertible evidence of the vigorous competition which exists. The carriers have regularly lowered wholesale rates, introduced service and rate promotions, and introduced new service improvements and offerings such as voice mail, data transmission capabilities, improved privacy, automatic call delivery outside the home service area and automatic intersystem handoff. In addition, Springwich has on many occasions responded to resellers' requests by making promotions permanent or introducing new rates or services which are identified by resellers as meeting a demand in the consumer market. In Connecticut, therefore, the wholesale carriers have demonstrated that, as anticipated by the Commission in establishing a two-carrier market structure, price and service competition can and does exist in

^{2/} Bell Atlantic's recently announced merger of its cellular operations with NYNEX and, more recently, the reported discussions of a similar venture with Sprint and possibly Ameritech, would all vastly expand Bell Atlantic's service territory. The immediate doubling of Bell Atlantic's service territory resulting from the NYNEX venture will provide Bell Atlantic with the additional competitive advantage of economies of scale not shared by Springwich. Springwich serves a service area limited to Connecticut and a small portion of Massachusetts -- a combined population of roughly 3.9 million -- as compared with a Bell Atlantic/NYNEX population of roughly 56 million.

^{3/} Bell Atlantic's consolidation of its cellular operations with NYNEX will give Bell Atlantic the economies of scale that will help it to compete with nationwide ESMR and PCS. Bell Atlantic's possible venture with Sprint would provide it with name recognition similar to the large telecommunications companies such as AT&T/McCaw that are poised to capture new segments of the wireless market in Connecticut.

the cellular market.^{4/} This service and price competition has benefitted cellular resellers and Connecticut consumers.

Competition at the retail cellular level also has produced a variety of service options for consumers and an increasing number of resale cellular providers.^{5/} The diverse retail service plans offered on an unregulated basis^{6/} by the multitude of resellers address the changing mobile communications needs of existing and new subscribers, and have contributed to the strong growth in cellular subscription in Connecticut. From June of 1992 through August 1994, the resellers using Springwich's network have increased end user subscribership by 100 percent. Clearly, as anticipated by the Commission in developing a two-carrier wholesale cellular market and a structure whereby an unlimited number of resellers can compete, the multiple layers of cellular competition in the Connecticut cellular market have assured, and will continue to assure, continuously improving service and protection against unjust and unreasonable rates. Therefore, while the Department's rate regulation to date has overseen the establishment of a vigorously competitive cellular market with ever-increasing subscribership, the time for competition to take over from regulation has now come.

^{4/} Economists recognize that a competitive outcome is possible even in a market with as few as two firms. This is particularly true of the cellular industry that features rapid technological change, aggressive pricing strategies by non-wireline carriers, shifting market share between the licensed carriers and unique service packaging. See S. Besen, R. Larnek, J. Murdoch, *The Cellular Service Industry: Performance and Competition*, Prepared for the Cellular Telecommunications Industry Association (Nov. 1992) ("Charles River Associates Study"). (A copy of the Charles River Associates Study is attached as Exhibit 1.)

^{5/} Since 1985, the number of cellular resellers in Connecticut has increased from 8 to 15.

^{6/} Retail cellular service is unregulated in Connecticut -- as are all other CMRS providers -- and is therefore not part of the Department's Petition.

This is particularly true given the current presence and imminent entry of unregulated competitors into the Connecticut market. Connecticut, based on its market characteristics, is an extremely attractive market for CMRS due to its population density and *per capita* income that ranks *first* in the United States. Today, Connecticut consumers have a choice in purchasing CMRS and selecting a CMRS provider. In addition to the 15 cellular resellers, there are approximately 40 paging companies offering service in Connecticut as well as dispatch and SMR providers. Connecticut also will be one of the first states to experience the arrival of ESMR and PCS providers. As an indication of the priority targeting of Connecticut by CMRS providers, Nextel already has constructed tower sites in Connecticut. *See Map of Connecticut Nextel Tower Sites* attached as Exhibit 2 hereto. Connecticut also is part of the New York City MTA - - expected to be one of the most sought-after PCS markets -- which will almost certainly be served by giant telecommunications entities (or combinations of such entities) with national name recognition and huge financial resources. Since they have no exclusive arrangement or long term contracts with their resellers, who will be able to resell the services of new entrants, the cellular carriers would be foolhardy to ignore the impending competition. Therefore, rather than wait until after they arrive to respond to the new competitors, the wholesale cellular carriers have *already* begun to compete by investing in network improvements and lowering wholesale rates to increase subscribership. In addition, both wholesale carriers have accelerated deployment of additional cell sites and conversion to digital technology to compete head-to-head with PCS and ESMR while at the same time decreasing their wholesale prices. As these proactive efforts to increase subscribership and customer loyalty indicate, the market forces in Connecticut already are shaped by the arrival of new CMRS competition.

All of the new CMRS entrants, as well as existing CMRS providers other than the wholesale cellular carriers, will be unregulated in Connecticut. Accordingly, contrary to the federal mandate for regulatory parity, retention of rate regulation in Connecticut solely for the wholesale carriers would impose asymmetrical regulation on the wholesale carriers that would not apply to the expanding services of other existing CMRS providers and new CMRS entrants. Springwiche submits, as Congress has indicated, that the need for regulatory parity in the regulation of CMRS is critical to the development of a competitive market for *all* CMRS. This is particularly true in light of the convergence of substitutable wireless technologies in the marketplace. Regulatory distinctions between SMR, cellular, paging and other forms of CMRS such as PCS increasingly are irrelevant and transparent to the consumer who can choose from and substitute an array of wireless services to meet its needs.^{7/}

There are no special or unique circumstances existing in Connecticut that would justify deviation from the federal mandate and justify continued rate regulation of only one segment of the CMRS market. If anything, the current competition between the wholesale carriers and the imminent arrival of new CMRS providers suggest that Connecticut must be one of the first states to achieve regulatory parity. Consistent with the Commission's own pro-competitive policies and determination to forbear from cellular rate regulation, and the federal policy established by the Budget Act to assure regulatory parity for all CMRS providers, Springwiche submits that the Commission should preclude further rate regulation in Connecticut.

^{7/} See R. Roche, Competition and the Wireless Industry at 12-13 ("CTIA Competition Study"). A copy of the study is attached as Exhibit 3 hereto.

B. The Department's Proceeding

Earlier this year, the Department conducted a proceeding to determine whether to petition the Commission for continued rate regulation of the wholesale cellular carriers. The parties included the three wholesale cellular carriers in Connecticut as well as several resellers of cellular telephone service, the Office of Consumer Counsel, and the State Attorney General. Following the conclusion of hearings, the Department issued a decision in the proceeding^{8/} and subsequently filed its Petition with the FCC. The Petition summarized the Department's request and attached its lengthy Decision which sets forth the issues considered by the Department and its basis for seeking continued regulation.^{9/}

A review of the Petition in isolation from the underlying Decision, does not provide the evidentiary basis for the Department's request for extended rate regulation. Importantly, as indicated in its Decision, the Department has not drawn any conclusions that the current rates and rate structures in the approved tariffs are unjust or unreasonable, or that the carriers have engaged in any anti-competitive practices or conduct.^{10/} Rather, the Decision identifies several areas in which the Department was confronted with conflicting record evidence which the

^{8/} Decision, *DPUC Investigation Into the Connecticut Cellular Service Market and The Status of Competition*, Docket No. 94-03-27, at 29 (issued Aug. 8, 1994) ("Decision").

^{9/} The Department seeks continued rate regulation authority until it completes a review, which it intends to commence on July 1, 1996, of the status of competition in the Connecticut CMRS marketplace. If the Department determines in that proceeding that the Connecticut CMRS market is not truly competitive, the Petition seeks authority to retain further its jurisdiction to regulate the rates of the Connecticut wholesale cellular carriers until October 1, 1997. To the extent that the Department concludes that true competition exists at the conclusion of its 1996 investigation, the Department's rate regulation would presumably cease at that time.

^{10/} Under Connecticut law, the Decision is the Department's final decision. *See* Conn. Gen. Stat. § 4-180(c).

Department seeks to review prior to rate deregulation.^{11/} In reviewing the basis for the Petition, as set forth in the Decision, the Commission must determine whether the state has overcome the "substantial hurdles" the Commission has indicated that a state must overcome to justify continued rate regulation. Springwich submits that the inconclusive matters raised in the Decision do not warrant continued rate regulation.

In addition, in the Decision the Department found that cellular service is not competitive with other existing CMRS services and that a one to two year period would be required for new CMRS entrants to become sufficiently established to warrant cellular rate deregulation. As specified by Congress in the Budget Act, however, and as applied by the Commission to its own deregulation of cellular services, the correct standard to be used by the FCC in reviewing a state petition is the adequacy of market conditions to protect against unjust, unreasonable and discriminatory rates, not whether the current market is "truly" competitive. Clearly a market with two licensed carriers is not as fully competitive as it would be if there were unlimited entry. To continue rate regulation based on the duopoly nature of the wholesale market would directly contravene the intent of the Budget Act which, after all, determined that deregulation should occur in a market that everywhere necessarily consists of two, and only two, wholesale providers. Further, applying the Budget Act standard demonstrates that existing CMRS

^{11/} The Department intends to conduct this review during the interim period in anticipation of its 1996 proceeding in order to "facilitate movement from a regulated environment to one where effective competition may begin to develop." Decision at 30. In its review, the Department intends to assess the validity of allegations of anti-competitive conduct raised by a reseller, the need for structural separation between the wholesale and retail carriers, and the just and reasonableness of the current wholesale carriers' tariff rates and rate structure. The Department's review will include a review of the carrier's rates of return as a guide to establishing bulk wholesale cellular rates.

competition in Connecticut, both between the cellular carriers and with other services, fully assures just and reasonable rates. The imminent entry of new CMRS carriers will only increase that assurance.

C. The Wholesale Carriers

Springwich is the wholesale cellular carrier owning, operating and providing cellular mobile telephone service to resellers on the wireline "Band B" frequencies throughout all of Connecticut. Springwich has provided wholesale cellular service since 1985. Its cellular service territory, which includes a portion of Massachusetts, comprises a population of roughly 3.9 million.^{12/} Springwich is a limited partnership whose general partner is SNET Springwich, Inc.,^{13/} a wholly-owned subsidiary of SNET Cellular, Inc., which in turn is a wholly-owned subsidiary of the Southern New England Telecommunications Corporation ("SNET"). SNET also resells cellular services to end users through its wholly-owned subsidiary SNET Mobility, Inc. ("SMI"), which provides service under the trade name "Linx." The affiliated wholesale and retail carriers of SNET (Springwich and SMI) adhere to strict cost separation in accordance with

^{12/} Cellular Telecommunications Industry Association, *The Wireless Fact Book*, at 28 (Spring 1994) ("*CTIA Factbook*"). Until August 10, 1994, when the Budget Act became effective, Springwich also was subject to state regulation by the Massachusetts Department of Public Utilities ("MDPU"). Unlike the Connecticut DPUC, however, the MDPU did not petition the Commission for authority to continue such regulation, and Springwich's Massachusetts rates are no longer regulated. (Springwich also notes that, unlike Connecticut, the MDPU also regulated cellular resellers, including Springwich's retail affiliate and paging. Such regulation also terminated on August 10, 1994.)

^{13/} The limited partners of Springwich are SNET Springwich, Inc., NYNEX Mobile Communications Company, SNET Cellular, Inc., The Woodbury Telephone Company of Connecticut, The Granby Telephone and Telegraph Company of Massachusetts, Inc., and New England Special Limited Partnership.

the FCC's Cost Accounting Manual ("CAM").^{14/} As a reseller, SMI purchases intrastate wholesale cellular services from Springwich pursuant to Springwich's tariff previously approved by the Department. The tariffed rates are available to all resellers.

Wholesale cellular services are available from Springwich to all resellers on a non-discriminatory basis pursuant to its tariff. Springwich's wholesale tariff provides volume and length of service discounts. Those discounts, approved by the Department, have been in place for a number of years and were developed to encourage resellers to grow their customer bases and as an incentive for the continued purchase of wholesale services from Springwich. Volume and length of service discounts are available to all resellers on the same terms and conditions in accordance with Springwich's approved Connecticut tariff and its obligation as a cellular common carrier.^{15/}

^{14/} As entities not subject to regulation by the FCC, the retail and wholesale carriers are not subject to separate accounting requirements by the FCC. Accounting requirements do apply, and are strictly adhered to, for any transactions between the Southern New England Telephone Company, Springwich and SMI's local exchange carrier affiliate, and either Springwich or SMI. *See In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, Second Report and Order*, 9 FCC Rcd. 1411, 1492 (1994), *petition for recon. pending* ("Second Report and Order").

^{15/} *See In the Matter of Petitions for Rulemaking Concerning Proposed Changes to the Commission's Cellular Resale Policies*, Notice of Proposed Rulemaking and Order, 6 FCC Rcd. 1719, 1721 (1991) ("Resale Policy Order"), *aff'd*, *Cellnet Communications, Inc. v. FCC*, 965 F.2d 1106 (1992). When the volume discount structure initially was proposed by Springwich to the Department, no reseller, including Springwich's retail affiliate, SMI, qualified for the highest volume discount. SMI has grown its subscriber base to qualify today for the highest discount level. The second largest reseller on the Springwich network, who resells both Springwich and BAMM wholesale services, now qualifies for the second highest volume discount. The other resellers qualify for various discounts based on their subscriber base.

The non-wireline "Band A" Connecticut cellular frequencies were initially awarded by the Commission to Metro Mobile CTS or its predecessors.^{16/} In addition to serving Connecticut, the Metro Mobile Companies held a number of non-wireline cellular licenses nationwide. In 1992, the Metro Mobile Companies were acquired by Bell Atlantic. Bell Atlantic/Metro Mobile ("BAMM") is now part of a family of cellular licensee companies which serve as the wireline cellular carrier in the six Bell Atlantic states and the District of Columbia, and as the non-wireline cellular carrier in a number of other markets including Connecticut, with a total cellular service area population of over 30 million.^{17/} In addition, Bell Atlantic recently announced its intention to merge its cellular operations with the cellular operations of NYNEX, thereby creating a contiguous cellular service territory from Maine to Virginia.

Like Springwich, BAMM offers its Connecticut wholesale cellular services to all resellers pursuant to its approved tariff. BAMM also provides volume discounts on cellular number and usage charges, and length of service discounts that have been approved by the Department. While their rate structures are similar, there are a number of differences between the wholesale service offerings of Springwich and BAMM which provide an opportunity for resellers (and their end users) to choose between the carriers on the basis of services most appropriate to their own

^{16/} Metro Mobile provided service through different licensees in the Connecticut markets: Metro Mobile CTS of Fairfield County, Inc., Metro Mobile CTS of Hartford, Inc., Metro Mobile CTS of New Haven, Inc., Metro Mobile CTS of New London, Inc., and Metro Mobile CTS of Windham, Inc. (together the "Metro Mobile Companies"). Litchfield County Cellular is the Band A carrier licensed to provide cellular services in the Connecticut Rural Service Area No. 1. McCaw Cellular Communications, Inc., whose merger with AT&T is currently pending, recently acquired the Litchfield County Cellular operations in Connecticut.

^{17/} *CTIA Factbook*, *supra* n.12, at 28.

and their customer's needs, as well as on rates.^{18/} As a result of the vigorous competition between the wholesale cellular carriers, resellers in Connecticut (other than the wholesale carriers' retail affiliates) generally take advantage of the competition by reselling the cellular services of both Springwich and BAMM.

II. THE CHARACTERISTICS OF THE CONNECTICUT CMRS MARKETPLACE DEMONSTRATE THAT COMPETITION EXISTS TODAY AND INDICATE THAT CONNECTICUT WILL BE ONE OF THE FIRST MARKETS TO EXPERIENCE NEWLY AUTHORIZED COMPETING SERVICES

As discussed above, the cellular marketplace in Connecticut is representative of the tremendous growth and increasing service value that shapes the cellular industry throughout the United States. The wholesale cellular market in Connecticut has been characterized by high growth, significant network investment, expanding coverage and services, declining prices, and intense competition between BAMM and Springwich. In addition, the demographics of the Connecticut market, including its proximity to New York, and the aggressive entry plans of new CMRS providers such as Nextel that already are being implemented in Connecticut, mean that it will be among the first states to experience the explosion of new CMRS.

^{18/} For example, BAMM's tariff provides that it will bill for cellular air time in 30-second increments, while Springwich's tariff provides that it will bill air time usage for most of its cellular services in one-minute increments. As a Bell Operating Company, BAMM, unlike Springwich, is required to offer equal access for interLATA services. This competitive difference provides resellers with a competitive choice to offer their end users presubscription to a specific interexchange carrier by electing to resell the BAMM network to a particular customer rather than the Springwich network.

A. The Connecticut CMRS Market is Competitive Today

1. Double-Digit Cellular Subscriber Growth

Since the Commission's initial licensing of cellular service in 1982, cellular service has grown from a fledgling (and expensive) new service with limited network coverage and, as a result, narrowly focused business use subscribership, to a state-of-the-art wireless communications service purchased by an increasingly wide array of business and individual consumers to meet a wide variety of mobile communications needs. Data collected by CTIA reveals tremendous growth in the number of consumers of cellular service. Since December 1984, when nationwide subscribership to cellular services totaled a mere 100,000 subscribers, the number of cellular subscribers had increased to over 19 million by June, 1994.^{19/} In Connecticut, similar increases in subscriber growth have occurred. Over the past five years, the percent of growth in cellular subscribers has averaged in the double digits. *See* Exhibit 4 attached hereto. Springwich's year-end estimates for 1993 indicate 86,052 active cellular numbers; BAMM reported 101,139 active cellular numbers for the same period. Subscribership in Connecticut for all commercial mobile services and for cellular services is predicted to continue to expand with the proliferation of new rate plans at the retail level, the continued decline in wholesale prices, and the entry of new CMRS providers.^{20/} The accelerating

^{19/} CTIA Press Release, "Mid-Year Results Show Wireless Customers Near 20 Million Mark; Monthly Bills Drop" (Sept. 6, 1994) ("*CTIA Press Release*").

^{20/} Indeed, as discussed below, since the close of the record in the Department's investigation leading to the Petition, both carriers have lowered their wholesale rates to all resellers.

expansion of the Connecticut cellular market through subscriber growth is evidence of a market that is responsive to consumers' needs for mobile telecommunications services.

2. Increasing Investment in Cell Site Deployment and Advanced Technologies

The Connecticut cellular carriers, like other carriers nationwide, are making significant network investments to expand network coverage and to convert existing cellular systems from analog to digital cellular technology in order to enhance service quality and to respond to existing and impending competition. CTIA's data indicates that the capital investment of the cellular carriers has increased from \$400 at the beginning of 1985 to almost \$14 billion at the end of 1993.^{21/} This investment has produced expanded network coverage, better reception quality, and therefore markedly increased service value to consumers.^{22/}

The wholesale cellular carriers in Connecticut similarly have made substantial network investment in response to, and in anticipation of, competition. Each of the carriers has made significant investments to expand network coverage through the deployment of additional cell sites. Since it received a cellular license in 1985, Springwich has invested in its cellular network by expanding network coverage and facilities and thereby providing additional service value to be passed on by all cellular resellers to their cellular end users. For example, the number of cell sites in Springwich's network has increased from an initial 17 for its entire service area in 1985 to over 90 today. *See* Exhibit 5 attached hereto. Springwich also is investing in advanced

^{21/} *CTIA Factbook, supra* n.12, at 9.

^{22/} CTIA reports that the number of cell sites deployed as of June 1994 totaled 14,740, up from 346 at the beginning of 1985. *See CTIA Press Release.*

digital technology. In 1989, for example, significantly before it had originally planned, Springwich installed a state-of-the-art digital switch as part of its commitment to converting its cellular network to a fully digital system. In 1991, again before it had anticipated, Springwich added a second digital switch to its network. In the immediate future, additional significant investment is planned including the deployment of additional micro-cells to accommodate the increasingly portable demands of cellular subscribers and the continued conversion to digital technology. See Affidavit of Mark W. Bluemling attached as Exhibit 6 hereto. Springwich's dedication to network upgrades and network investment is fueled by its commitment to providing high-quality cellular services to resellers that can be resold to end users. The evidence showed that BAMM is also making substantial network investments. These network upgrades and investment by both carriers are a direct response to competition in the wholesale cellular market between Springwich and BAMM as well as the real and immediate entry of new, fully digital CMRS competition from services such as PCS and ESMR. Absent a very real and effective competitive impact, it is unlikely that a carrier would continue to make such substantial new investment where the existing equipment in many cases has not outlived its useful life or its costs have not been recovered.

3. Continuously Declining Wholesale Rates

Another indicator of the competitive forces in the cellular industry is declining cellular prices. Dr. Jerry Hausman of the Massachusetts Institute of Technology recently estimated that, between 1987 and 1991, the real price of cellular services, adjusted for inflation, declined

annually at a rate of 10 to 12 percent.^{23/} Intrastate cellular wholesale rates in Connecticut have declined in even greater amounts as network investment by the wholesale cellular carriers has escalated. Specifically, between 1990 and 1994, Springwich's monthly wholesale rates for cellular numbers decreased more than 11 percent before adjustment for inflation. Last month, in response to a rate reduction by BAMM and the changing market conditions, Springwich announced an additional 35 percent decrease in monthly wholesale rates for cellular numbers. Usage rates similarly have declined significantly. For example, before adjustment for inflation, Springwich's per minute rates for peak usage have decreased more than 15 percent and per minute rates for off-peak usage have declined roughly 25 percent since 1990. See Exhibit 7 describing price decreases attached hereto. These continuing price reductions have been made at the same time that network investment has increased and the carriers have undertaken the significant cost of converting their networks to digital technology. The simultaneous commitment of the carriers to expanded investment and price reduction demonstrates the existence of strenuous price and service competition in the Connecticut wholesale cellular market.

4. Retail Competition

While retail cellular rates are not the subject of the Petition and are not regulated by the Department, significant price competition also exists in the Connecticut retail cellular market. There are currently at least 15 cellular resellers in Connecticut, up from 8 in 1985. The presence of these resellers, each of whom built a subscriber base from zero, has produced

^{23/} Affidavit of J. Hausman, *United States v. Western Elec. Co., Inc.*, Civil Action No. 82-0192 at 19 (June 28, 1994) ("Hausman Affidavit").

significant price and service competition in the resale market. Retail competition is demonstrated by the introduction of various retail pricing plans that have attracted new cellular subscribers, provided existing subscribers with different pricing plan options and employed different distribution channels. At the retail level, SMI has introduced a number of pricing plans that provide competitive, lower prices for different subscriber needs. Other resellers also offer a range of service plans targeting specific segments of the market. In addition, cellular resellers in Connecticut use diverse marketing and distribution strategies depending upon their long term market goals. SMI, for example, has chosen to use a wide range of distribution agents such as retail stores and outlets as the point of purchase for its retail cellular service. Other resellers have chosen not to use distribution agents but to market their services directly to end users thereby avoiding the payment of commissions.

The offering of new plans designed for the previously untapped lower use and leisure use markets is a good example of the retail marketplace at work. These plans have increased the number of lower usage, non-business, cellular subscribers in Connecticut for whom cellular service was previously price-prohibitive. The variety of pricing plans have thereby provided competitively priced options for subscribers depending on their specific mobile service needs. In addition to the panoply of new rate plans making cellular service less expensive for both low use and high use customers, the price of the "basic" plans offered by cellular resellers has never increased. These constant rates, when adjusted for inflation, effectively have resulted in a basic plan price decrease in real terms of 34 percent with a tremendous increase in service quality and coverage. SMI and other Connecticut resellers have retained their basic plan structure and rates because the plans are the plan of choice for a significant number of its subscribers. The